

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BARRY WAYNE ADAMS,)	
Petitioner,)	
)	No. 1:11-cv-1123
-v-)	
)	HONORABLE PAUL L. MALONEY
CARMEN PALMER,)	
Respondent.)	
_____)	

ORDER ADOPTING REPORT AND RECOMMENDATION OVER OBJECTIONS

Barry Wayne Adams (“Petitioner”) filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The magistrate judge performed an initial review of the petition and issued a report (ECF No. 6) recommending the petition be denied because it is barred by the one-year statute of limitations. Petitioner filed an objection. (ECF No. 7.)

Generally, Petitioner does not deny that the petition was filed outside the one-year statute of limitations. The difficulties with proceeding pro se while incarcerated do not warrant tolling the statute of limitations. Those difficulties are not extraordinary circumstances that stand in the way of filing a timely petition. Contrary to Petitioner’s assertion, *Holland v. Florida*, 130 S.Ct. 2549 (2010) does not support the proposition that there is a rebuttable presumption in favor of equitable tolling or habeas petitions.

Having reviewed the report and recommendation and objections, the report and recommendation (ECF No. 6) is **ADOPTED** as the opinion of this Court.

The Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of the denial of a constitutional right. Reasonable jurists would not disagree that Petitioner did not timely file this petition. Nor would reasonable jurists disagree that Petitioner has not established a basis for equitable tolling.

IT IS SO ORDERED.

Date: December 14, 2011

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge